

SENATE BILL 2854
By Person, Curtis

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 5, relative to the practice of dentistry and dental hygiene.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-5-108(d), is amended by deleting the fourth sentence of that section and substituting in lieu thereof the following:

Any duly licensed dentist may assign inserting, packing, carving and finishing amalgam and intracoronal nonmetallic restorations and taking final impressions for fixed and removable prosthetic appliances under the direct supervision of said dentist. These duties shall be assignable to any duly licensed dental hygienist or duly registered dental assistant upon such hygienist or assistant providing evidence of the successful completion of a program of expanded duties conducted by an accredited dental college in the state approved by the board. The board must fully promulgate rules and regulations to implement this section no later than January 1, 2005.

SECTION 2. Tennessee Code Annotated, Section 63-5-108(d), is further amended by inserting immediately after the first sentence the following new language:

To be registered by the board of dentistry, a dental assistant shall be required to only show current certification by a national accrediting body or evidence of completion of a board approved dental assistants training program through a dental organization approved by the board and payment of appropriate fees.

SECTION 3. Tennessee Code Annotated, Section 63-5-108(d), is further amended by deleting in the third sentence of the existing section the words "a clinical and" and substituting the language "only a".

SECTION 4. Tennessee Code Annotated, Section 63-5-113(b), is amended by adding a new subsection (4) as follows:

(4) The board may recognize specialty certification of those dentists licensed through the licensure criteria provisions of § 63-5-110, if the requirements for certification in the original state are substantially equivalent to those requirements in Tennessee.

SECTION 5. Tennessee Code Annotated, Section 63-5-124, is amended by adding the following new subsections, as follows:

(g) Notwithstanding any provision of the Uniform Administrative Procedures Act, compiled under title 4, chapter 5, to the contrary, hearing officers are authorized to, and may hear board mediation, arbitration or disciplinary contested cases, but may not issue final orders in contested case matters. Notwithstanding any of the provisions of §§ 4-5-314 and 4-5-315, which may be or are inconsistent, such hearing officers may only issue findings of fact and conclusions of law which shall be referred directly to the board or a duly constituted panel thereof for final action. The board or duly constituted licensed panel of dentists, after hearing testimony and arguments from both parties regarding the appropriate disciplinary action and, if allowed by the board, arguments on any controversy raised by the hearing officer's or designee's order, shall issue a final order to include the imposition of what, if any, disciplinary action is deemed appropriate. Only the board or a duly constituted panel of licensed dentists thereof shall have the authority to issue final orders which dispose of a pending contested case regardless of whether the issues resulting in the dispositive action are procedural, substantive, factual or legal. If a hearing officer is not available when a contested case, or any motion filed therein requiring action, is ready and scheduled to be heard or fails to timely prepare findings and conclusions pursuant to board established guidelines, the board or a duly constituted panel of licensed dentists thereof may rule on the motions or hear the contested case or utilize the record compiled before the hearing officers and prepare its own findings of fact, conclusions of law and then issue a final order. With regards to findings and conclusions issued by the hearing officer, or any mediator or arbitrator, the board or any duly constituted panel thereof which reviews the case may do any of the following:

(1) Adopt the hearing officer's, mediator's or arbitrator's findings of fact and conclusions of law, in whole or in part;

(2) Make its own findings of fact and conclusions of law, based solely on the record and the expertise of the members of the board or panel, in addition to or in substitution of those made by the hearing officer, mediator or arbitrator;

(3) Remand the matter back to the hearing officer, mediator or arbitrator for action consistent with the board or panel findings and conclusions in the matter; or

(4) Reverse the hearing officer's, mediator's, or arbitrator's findings and/or dismiss the matter entirely.

(h) The board retains jurisdiction to modify or refuse to modify, upon request of any party, any of its orders issued pursuant to this section in compliance with procedures established by the board. The board, pursuant to duly promulgated rules, may, whenever a final order is issued after a disciplinary contested case hearing which contains findings that a licensee or other person has violated any provision of this chapter, assess the costs directly related to the prosecution of the case against the licensee or person.

(i) Any arbitrator or mediator has the authority to administer oaths to witnesses, and upon probable cause being established, issue subpoenas for the attendance of witnesses and the production of documents and records.

(j) Any vote of the board involving a disciplinary action towards a dentist shall require a majority vote of the dentists and the consumer member present and voting.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring

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